



Winston H. Hickox
Secretary for
Environmental
Protection

California Regional Water Quality Control Board Los Angeles Region

(50 Years Serving Coastal Los Angeles and Ventura Counties)

320 W. 4th Street, Suite 200, Los Angeles, California 90013
Phone (213) 576-6600 FAX (213) 576-6640
Internet Address: <http://www.swrcb.ca.gov/rwqcb4>



Gray Davis
Governor

Steve Kessler
Trimark Pacific Newbury, LLC
31248 Oak Crest Drive, Suite 150
Westlake Village, CA 91361

CONDITIONAL CERTIFICATION FOR PROPOSED VENTU PARK ROAD PROJECT (Corps' Project No. 2001-00905-SM), ARROYO CONEJO CREEK, CITY OF THOUSAND OAKS, VENTURA COUNTY (File No. 01-028)

Dear Mr. Kessler:

Regional Board staff has reviewed your request on behalf of Trimark Pacific Newbury, LLC (the Applicant) for a Clean Water Act Section 401 Water Quality Certification for the above-referenced project. Your application was deemed complete on October 10, 2001.

I hereby certify that there is a reasonable assurance that the discharge from the Ventu Park Road Project, as proposed and described in Attachment A, if performed in accordance with all applicable water quality objectives, prohibitions, and policies set forth in the *Water Quality Control Plan, Los Angeles Region* (1994), and in accordance with the conditions specified in Attachment B, will comply with the applicable water quality standards and other appropriate requirements, including the provisions of Sections 301, 302, 303, 306, and 307 of the Clean Water Act.

The Applicant shall be liable civilly for any violations of this certification in accordance with the California Water Code. This Certification does not eliminate the Applicant's responsibility to comply with any other applicable laws, requirements and/or permits.

Should you have questions concerning this certification action, please contact Valerie Carrillo, at (213) 576-6759.

_____[Original signed by]_____
Dennis A. Dickerson
Executive Officer

_____[11/14/01]_____
Date

California Environmental Protection Agency

The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption
For a list of simple ways to reduce demand and cut your energy costs, see the tips at: <http://www.swrcb.ca.gov/news/echallenge.html>



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David Wolff
Rincon Consultants
1530 Monterey Street, Suite D
San Luis Obispo

Oscar Balaguer
State Water Resources Control Board
Division of Water Quality
P.O. Box 944213
Sacramento, CA 94244-2130

Betty Courtney
California Department of Fish and Game
Streambed Alteration Team
4949 View Ridge Avenue
San Diego, CA 92123

Spencer MacNeil
U.S. Army Corps of Engineers
Regulatory Branch, Ventura Field Office
2151 Alessandro Drive, Suite 255
Ventura, CA 93001

Aaron Setran (WTR-8)
U.S. Environmental Protection Agency, Region 9
75 Hawthorne Street
San Francisco, CA 94105

Director of Water Division (WTR-1)
U.S. Environmental Protection Agency, Region 9
75 Hawthorne Street
San Francisco, CA 94105

Diane Noda
U.S. Fish and Wildlife Service
2493 Portola Road, Suite B
Ventura, CA 93003

ATTACHMENT A

Project Information

File No. 01-028

1. Applicant: Steve Kessler
Trimark Pacific Newbury, LLC
31248 Oak Crest Drive, Suite 150
Westlake Village, CA 91361
Phone: (818) 706-9797 Fax: (818) 706-9777
2. Applicant's Agent: David Wolff
Rincon Consultants
1530 Monterey Street, Suite D
San Luis Obispo, CA 93401

Phone: (805) 547-0900 Fax: (805) 547-0901
3. Project Name: Ventu Park Road Project
4. Project Location: City of Thousand Oaks, Ventura County
N34° 10.9' W118° 54.5'
5. Type of Project: Residential development
6. Project Description: The proposed project involves the subdivision of 4.73 acres into eight lots, and the construction of sixty townhouse units. Construction activities include the construction of homes, parking, roads, and a 0.25 acre open space area in the center of the project. The proposed site would permanently impact 0.24 acres of jurisdictional wetlands. The proposed design will connect pipe to the back of the existing curb inlet at the southeast corner of the site and drain flows via pipe to discharge at existing concrete drainage inlet structure at northwest corner of site. Water would then flow through this open area and be collected into a pipe and diverted to the existing open culvert on the northwest corner of the property.
7. Federal Agency/Permit: U.S. Army Corps of Engineers
NWP No. 39 (Permit No. 2001-00905-SDM)
8. Other Required Regulatory Approvals: California Department of Fish and Game
Streambed Alteration Agreement

ATTACHMENT A

Project Information File No. 01-028

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| 9. California Environmental Quality Act (CEQA) Compliance: | The City Council of the City of Thousand Oaks approved the project's Mitigated Negative Declaration on July 22, 1998. |
| 10. Receiving Water: | Arroyo Conejo Creek (Hydrologic Unit No. 403.64) |
| 11. Designated Beneficial Uses: | MUN, GWR, FRSH, REC-1, REC-2, WARM, WILD, RARE |
| 12. Impacted Waters of the United States: | Federal jurisdictional wetlands: 0.24 permanent acres |
| 13. Dredge Volume: | 0 cubic yards |
| 14. Related Projects Implemented/to be Implemented by the Applicant: | The Applicant has not identified any related projects carried out in the last 5 years or planned for implementation in the next 5 years. |
| 15. Avoidance/Minimization Activities: | <p>The Applicant has proposed several Best Management Practices, including, but not limited to, the following:</p> <ul style="list-style-type: none">• Storm drain inserts and vegetated swales will be utilized;• All bare soils will be stabilized with appropriate vegetation and/or erosion control fabric or stabilized using approved erosion control techniques; and• Appropriate soil erosion and sediment controls will be employed during grading and construction activities. |

ATTACHMENT A

Project Information File No. [01-028](#)

16. Proposed
Compensatory
Mitigation:

The Applicant has proposed to provide mitigation for the proposed permanent impacts of 0.24 acres waters of the United States by payment of an in lieu fee to the Coastal Conservancy. The funding is earmarked for the Calleguas Creek Watershed Wetland Restoration Project. Payment of in-lieu fees is for the creation and enhancement of 0.72 acres of in-kind habitat at a mitigation ratio of 3:1.

ATTACHMENT B

Conditions of Certification File No. 01-028

STANDARD CONDITIONS

Pursuant to §3860 of Title 23 of the California Code of Regulations (23 CCR), the following three standard conditions shall apply to this project:

1. This certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to §13330 of the California Water Code and Article 6 (commencing with 23 CCR §3867).
2. This certification action is not intended and shall not be construed to apply to any activity involving a hydroelectric facility and requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to 23 CCR Subsection 3855(b) and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
3. Certification is conditioned upon total payment of any fee required pursuant to 23 CCR Chapter 28 and owed by the Applicant.

ADDITIONAL CONDITIONS

Pursuant to 23 CCR §3859(a), the Applicant shall comply with the following additional conditions:

1. The Applicant shall submit to this Regional Board copies of any other final permits and agreements required for this project, including, but not limited to, the U.S. Army Corps of Engineers' Section 404 Permit and the California Department of Fish and Game's Streambed Alteration Agreement. **These documents shall be submitted prior to any discharge to waters of the state.**
2. Fueling, lubrication, maintenance, operation, and storage of vehicles and equipment shall not result in a discharge or a threatened discharge to waters of the state. At no time shall the Applicant use any vehicle or equipment which leaks any substance that may impact water quality. Staging and storage areas for vehicles and equipment shall be located outside of waters of the state.
3. No construction material, spoils, debris, or any other substances associated with this project that may adversely impact water quality standards, shall be located in a manner which may result in a discharge or a threatened discharge to waters of the state.
4. The Applicant shall not conduct any construction activities within waters of the state during a rainfall event. The Applicant shall maintain **a five-day (5-day) clear weather forecast** before conducting any operations within waters of the state.

ATTACHMENT B

Conditions of Certification

File No. **01-028**

5. No activities shall involve wet excavations (i.e., no excavations shall occur below the seasonal high water table). A minimum **5-foot** buffer zone shall be maintained above the existing groundwater level. If construction or groundwater dewatering is proposed or anticipated, the Applicant shall file a **Report of Waste Discharge** to this Regional Board and obtain any necessary NPDES permits/Waste Discharge Requirements prior to discharging waste. Sufficient time should be allowed to obtain any such permits (generally 180 days). If groundwater is encountered without the benefit of appropriate permits, the Applicant shall cease all activities in the areas where groundwater is present, file a Report of Waste Discharge to this Regional Board, and obtain any necessary permits prior to discharging waste.
6. All surface waters, including ponded waters, shall be diverted away from areas undergoing grading, construction, excavation, vegetation removal, and/or any other activity which may result in a discharge to the receiving water. If surface water diversions are anticipated, the Applicant shall develop and submit a **Surface Water Diversion Plan** to this Regional Board. The plan shall include the proposed method and duration of diversion activities, erosion and sediment controls, and a map or drawing indicating the locations of diversion and discharge points. The plan shall be submitted prior to any surface water diversions. If surface flows are present, then upstream and downstream monitoring for pH, temperature, dissolved oxygen, turbidity, and total suspended solids shall be implemented. These constituents shall be monitored on a **daily** basis during the first week of diversion activities, and then on a **weekly** basis, thereafter, until the in-stream work is complete. Results of the analyses shall be submitted to this Regional Board by the **15th** day of each subsequent sampling month. A map or drawing indicating the locations of sampling points shall be included with each submittal. Diversion activities shall not result in the degradation of beneficial uses or exceedance of water quality objectives of the receiving waters. Any such violations may result in corrective and/or enforcement actions, including increased monitoring and sample collection.
7. The Applicant shall restore the proposed **0.24 acres** of TEMPORARY IMPACTS to waters of the United States and all other areas of temporary disturbance which could result in a discharge or a threatened discharge to waters of the state. Restoration shall include grading of disturbed areas to pre-project contours and revegetation with native species. The Applicant shall implement appropriate Best Management Practices to control erosion and runoff from areas associated with this project.
8. The Applicant shall provide COMPENSATORY MITIGATION for the proposed permanent loss of **0.24 acres** waters of the United States, by transferring funds to the Coastal Conservancy for the Calleguas Creek Watershed Wetland Project. The funds are for the creation of a minimum of **0.72 acres** of wetland habitat. This acreage corresponds to a 3:1 mitigation ratio. The location of the mitigation site shall be clearly identified on a map of suitable quality and shall be defined by latitude and longitude. This information shall be submitted to this Regional Board prior to any disturbance within waters of the United States

ATTACHMENT B

Conditions of Certification File No. 01-028

and shall include copies of any agreements made between the Applicant and a third party organization regarding compensatory mitigation efforts.

9. The Applicant shall submit to this Regional Board **Annual Monitoring Reports** documenting the success of all restoration and mitigation efforts, including, percent survival by plant species and percent cover. The reports shall include discussion of any monitoring activities and exotic plant control efforts. Representative photographs from designated stations shall be included in the reports. The reports shall be submitted by **January 1st** of each year for a period of **five (5) years** after planting.
10. All communications regarding this project and submitted to this Regional Board shall identify the Project File Number **01-028**. Submittals shall be sent to the attention of the Nonpoint Source Unit.
11. Any modifications of the proposed project may require submittal of a new Clean Water Act Section 401 Water Quality Certification application and appropriate filing fee.
12. The project shall comply with the local regulations associated with the Regional Board's **Municipal Stormwater Permit** issued to Ventura County and co-permittees under NPDES No. CAS004002 and Waste Discharge Requirements Order No. 00-108. This includes the Stormwater Quality Urban Impact Mitigation Plan (SQUIMP) and all related implementing local ordinances and regulations for the control of stormwater pollution from new development and redevelopment.
13. *Enforcement:*
 - (a) In the event of any violation or threatened violation of the conditions of this certification, the violation or threatened violation shall be subject to any remedies, penalties, process or sanctions as provided for under state law. For purposes of section 401(d) of the Clean Water Act, the applicability of any state law authorizing remedies, penalties, process or sanctions for the violation or threatened violation constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements incorporated into this certification.
 - (b) In response to a suspected violation of any condition of this certification, the State Water Resources Control Board (SWRCB) may require the holder of any permit or license subject to this certification to furnish, under penalty of perjury, any technical or monitoring reports the SWRCB deems appropriate, provided that the burden, including costs, of the reports shall be a reasonable relationship to the need for the reports and the benefits to be obtained from the reports.
 - (c) In response to any violation of the conditions of this certification, the SWRCB may add to or modify the conditions of this certification as appropriate to ensure compliance.